

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

HENRY WILLIAM LEGAREY,)	
)	No. CV-11-138-JPH
Plaintiff,)	
)	ORDER GRANTING STIPULATED
v.)	MOTION FOR REMAND
)	
MICHAEL J. ASTRUE,)	(ECF No. 13)
Commissioner of Social)	
Security,)	
)	
Defendant.)	

BEFORE THE COURT is the parties' stipulated motion to remand this case to the Commissioner for further administrative proceedings (**ECF No. 13**). Paul L. Clark represents plaintiff. Special Assistant United States Attorney Willy M. Lee represents defendant. The parties have consented to proceed before a magistrate judge (ECF No. 3).

After considering the stipulated motion (ECF No. 13), **IT IS ORDERED** that the **motion is GRANTED. The case is REVERSED and REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings, including:

1. The ALJ will conduct a new hearing.

2. The ALJ will further consider all of the medical opinions, particularly those of Drs. Keyser and Lundberg. The ALJ will explain the weight given the statements in accordance with 20 C.F.R. 404.1527 and 416.27, as well as SRR's 96-2p and 96-5p.

3. The ALJ will consider the evidence received in connection

1 with the subsequent application in determining whether plaintiff
2 was under a disability during the period at issue in the hearing
3 decision. The subsequent decision shall not be reopened.

4 4. Plaintiff will have the right at a new hearing to testify
5 concerning the period of onset up to the date adjudicated in his
6 subsequent application.

7 Because this remand is pursuant to sentence four with a
8 remand to the Commissioner for further proceedings (*see Melkonyan*
9 *v. Sullivan*, 501 U.S. 89 (1991)), plaintiff is entitled to
10 reasonable attorney's fees and costs pursuant to 28 U.S.C. § 2412
11 (a), (d), upon proper request to this Court.

12 **IT IS FURTHER ORDERED:**

13 1. The parties' stipulated motion for an order of remand
14 pursuant to sentence four (ECF No. 13) is **GRANTED**.

15 2. Judgment shall be entered for **PLAINTIFF**.

16 3. An application for attorney fees and costs may be filed by
17 separate motion.

18 4. The District Court Executive is directed to enter this
19 Order, enter judgment, forward copies to counsel, and **CLOSE** the
20 file.

21 **IT IS SO ORDERED.**

22 **DATED** this 1st day of November, 2011.

23 s/James P. Hutton
24 JAMES P. HUTTON
UNITED STATES MAGISTRATE JUDGE